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13 Attorneys for Plaintiff  
14 United States of America

15 UNITED STATES DISTRICT COURT  
16 SOUTHERN DISTRICT OF CALIFORNIA  
17

18 UNITED STATES OF AMERICA, *ex rel.*  
19 RYAN FERGUSON and MARK T. PACHECO,

20 Plaintiffs,

21 vs.

22 BRIDGEPOINT EDUCATION, INC.;  
23 ASHFORD UNIVERSITY, LLC; UNIVERSITY  
OF THE ROCKIES; and DOES 1-20,

24 Defendants.

Case No. 11CV0493-BTM (DHB)

UNITED STATES' NOTICE OF  
ELECTION TO DECLINE  
INTERVENTION

**FILED UNDER SEAL**

25 Pursuant to the False Claims Act, 31 U.S.C. § 3730(b)(4)(B), the United States notifies the Court  
26 of its decision not to intervene in this action.

27 Although the United States declines to intervene, we respectfully refer the Court to Title  
28 31 U.S.C. § 3730(b)(1), which allows the relators to maintain the action in the name of the United States;

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CLERK OF COURT  
SOUTHERN DISTRICT OF CALIFORNIA

BY  DEPUTY

1 providing, however, that the "action may be dismissed only if the court and the Attorney General give  
 2 written consent to the dismissal and their reasons for consenting." *Id.* The United States Court of  
 3 Appeals for the Ninth Circuit has held that, notwithstanding this language, the United States has the right  
 4 only to a hearing when it objects to a settlement or dismissal of the action. *U.S. ex rel. Green v.*  
 5 *Northrop Corp.*, 59 F.3d 953,959 (9th Cir. 1995); *U.S. ex rel. Killingsworth v. Northrop Corp.*, 25 F.3d  
 6 715,723-25 (9th Cir. 1994). Therefore, the United States requests that, should either the relators or the  
 7 defendants propose that this action be dismissed, settled, or otherwise discontinued, this Court provide  
 8 the United States with notice and an opportunity to be heard before ruling or granting its approval.

9 Furthermore, pursuant to 31 U.S.C. § 3730(c)(3), the United States requests that all pleadings  
 10 filed in this action be served upon the United States; the United States also requests that orders issued  
 11 by the Court be sent to the United States' counsel. The United States reserves its right to order any  
 12 deposition transcripts and to intervene in this action, for good cause, at a later date. The United States  
 13 also requests that it be served with all notices of appeal.

14 Finally, the United States requests that the relators' Complaint, this Notice, and the attached  
 15 proposed Order be unsealed. The United States requests that all other papers on file in this action remain  
 16 under seal because in discussing the content and extent of the United States' investigation, such papers  
 17 were provided to the Court alone in relation to the intervention determination deadline.

18 A proposed Order accompanies this notice.

19 DATED: December 21, 2012

Respectfully submitted,

20 STUART DELERY  
 21 Principal Deputy Assistant Attorney General

22 LAURA E. DUFFY  
 23 United States Attorney

24   
 25 JOSEPH P. PRICE, JR.  
 Assistant United States Attorney

26 MICHAEL D. GRANSTON  
 27 RENEE BROOKER  
 28 JAY D. MAJORS  
 Civil Division  
 United States Department of Justice

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

Case No. 11cv0493-BTM (POR)

UNITED STATES OF AMERICA, *ex rel.*  
FERGUSON and MARK T. PACHECO,

Plaintiffs,

v.

BRIDGEPOINT EDUCATION, INC.;  
ASHFORD UNIVERSITY, LLC;  
UNIVERSITY OF THE ROCKIES;  
and DOES 1-20,

Defendant.

CERTIFICATE OF SERVICE

FILED UNDER SEAL

STATE OF CALIFORNIA )  
COUNTY OF SAN DIEGO ) ss.

I, Ana I. Fread, am a citizen of the United States over the age of eighteen years and a resident of San Diego County, California; my business address is 880 Front Street, San Diego, California; I am not a party to the above-entitled action; and

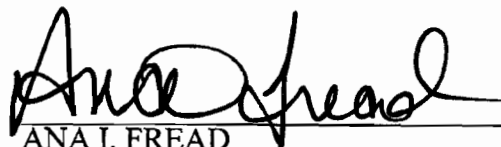
On December 21, 2012, I deposited in the United States mail at San Diego, California, in the above-entitled action, in an envelope bearing the requisite postage, a copy of:

United States' Notice of Election to Decline Intervention, and [PROPOSED] ORDER;  
addressed to:

Francis A. Bottini, Jr. & Albert Y. Chang, Esq.  
Bottini & Bottini, Inc.  
7817 Ivanhoe Avenue, Suite 102  
La Jolla, CA 92037

the last known addresses at which place there is delivery service of mail from the United States Postal Service.

I declare under penalty of perjury that the foregoing is true and correct. Executed on this 21<sup>st</sup> day of December, 2012

  
ANA I. FREAD